IN THE HIGH COURTOF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3916 OF 2004

Mrs. Sheetal Arora ..Applicant

Vs.

The State of Maharashtra & Ors. ..Respondents

Mr.P.M.Pradhan, Adv. for Applicant

Mr.M.S. Mohite, Adv. for Respondent nos.2 and 3

Mr. A.M. Shringarpure, A.P.P. for the State

CORAM: V.M. KANADE,J.
DATED: 16TH DECEMBER, 2004

P.C.

1. Heard learned Counsel on behalf of the applicant and learned Counsel on behalf of the respondent no.2. This is the application filed by the original complainant for cancellation of bail granted by the Metropolitan Magistrate, Xth Court, Andheri, Mumbai to respondent nos.2 and 3, original accused nos.4 and 7.

2. Brief facts are that the applicant is the original complainant who got married with accused no.1 Babeet Singh Sahani and there after proceeded to Canada. It is alleged that the marriage was performed and the original accused nos.2 and 3 had arranged for the said marriage. It is the case of the applicant that her father had spent about 9 lacs rupees in the marriage ceremony and the applicant

and her husband returned to Canada some time on 18th August 2001. It is alleged that the accused no.1 Babeet Singh Sahani and his parents demanded dowry and harassed the applicant, as a result of which she had to come back to India. It is alleged that accused no.1 had entrusted Shridhan to respondent nos.2 and 3 and the said Shridhan was not returned. A complaint was filed in the Court of Metropolitan Magistrate, Xth Court under Section 498(A), 406 r.w. 34 of Indian Penal Code. The learned Magistrate directed the police to investigate into the matter under the provisions of Section 156(3) of the Code of Criminal Procedure. After investigation the police registered an offence on 20th January, 2004 and arrested the respondent nos.2 and 3 and they were produced before the Magistrate. An application for remand was made on the very same day. An application for bail was also filed and the accused were released on bail by the Magistrate.

3. The learned Counsel appearing on behalf of applicant takes exception to the order of bail and it is alleged that accused/respondent nos.2 and 3 were released on the same day and order of remand was not passed by the Magistrate. It is submitted that as a result of which the investigation was not carried out and if order of bail is not cancelled it is not possible to the investigating agency to investigate into the matter as the respondent nos.2

and 3 are permanently residing at New Delhi.

4. I have perused the order passed by the learned Magistrate and also affidavit in reply filed by the respondent nos.2 and 3, in their affidavit in reply they have stated that applicant and accused no.1 obtained divorce in the competent Court, at Canada and the entire ornaments were returned to her. Similarly an application for judicial separation was filed. It is submitted that the applicant had signed all those documents which are duly attested by the concerned authorities in Canada. The applicant was duly served and affidavit of service is also filed by the respondent in the competent Court in Canada. The application filed by the applicant for recording her change of address is also annexed by the respondents. It is pertinent to note that the applicant was very well aware about the divorce proceedings. This is evident from the fact that when bail was granted by the Metropolitan Magistrate, he has recorded submissions made by the Counsels appeared on behalf of respondent nos.2 and 3. The Advocate had filed a list of documents and contended on the basis of said documents that the complainant had taken divorce. Further it was brought to the notice of the Court that the initial complaint which was filed at Andheri, no allegations were made against the present respondent nos.2 and 3.

5. Considering the affidavit in reply and also the detailed order passed by the learned Metropolitan Magistrate I do not see any reason to interfere with the said order or to cancel the bail of respondent nos.2 and 3. The application for cancellation of bail is rejected.

JUDGE